

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE: SMITH & NEPHEW
BIRMINGHAM HIP RESURFACING
(BHR) HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL-17-md-2775
Hon. Catherine C. Blake

This Document Relates to
Case No. 1:18-cv-1319

**SHORT FORM COMPLAINT
BHR TRACK CASES**

SHORT FORM COMPLAINT

1. Plaintiff, Leslie Keyes, states and brings this civil action in MDL No. 2775, entitled *In re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation*. Plaintiff is filing this Short Form Complaint pursuant to CMO No. 3, entered by this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff is a resident and citizen of Alabama and claims damages as set forth below.

3. Federal jurisdiction is proper based on diversity of citizenship.

4. The Federal District in which Plaintiff's initial implant took place: Northern District of Alabama.

5. Plaintiff brings this action *[check the applicable designation]*:

☒ On behalf of herself;

FACTUAL ALLEGATIONS

6. On or about March 11, 2013, Plaintiff underwent surgery during which the Smith & Nephew BHR Resurfacing System was implanted into Plaintiff's left hip.

7. Plaintiff's left BHR implant surgery was performed at St. Vincent's Birmingham by Dr. Jeffrey C. Davis.

8. Plaintiff's physician has advised her that a revision surgery to remove the left BHR implant is medically-indicated and necessary. Plaintiff is unable to undergo the revision surgery due to a medical condition.

9. Plaintiff adopts the allegations of the Master Amended Consolidated Complaint ("MACC") filed August 11, 2017, and any and all amendments to the MACC.

ALLEGATIONS AS TO INJURIES

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

<u> X </u>	INJURY TO HERSELF
<u> </u>	INJURY TO THE PERSON REPRESENTED
<u> </u>	WRONGFUL DEATH
<u> </u>	SURVIVORSHIP ACTION
<u> X </u>	ECONOMIC LOSS

Defendant, by its actions or inactions, proximately caused the injuries to Plaintiff.

DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

11. The following claims and allegations are asserted by Plaintiff and are herein adopted by reference under the laws of the following state (check all that are applicable):

<u> X </u>	COUNT I (negligence: Alabama)
<u> X </u>	COUNT II (negligent failure to warn: Alabama)
<u> X </u>	COUNT III (negligent misrepresentation: Alabama)
<u> X </u>	COUNT IV (negligence per se: Alabama)
<u> X </u>	COUNT V (breach of express warranties: Alabama)
<u> X </u>	COUNT IV (punitive damages: Alabama)

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement; and
7. All other relief as the Court deems necessary, just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all claims in Complaint so triable.

Dated: June 22, 2018

Respectfully submitted,

/s/Rip Andrews

RIP ANDREWS

AL Bar No.: ASB-8868-l52a

MD pro hac Bar No.: 806835

Attorney for Plaintiff

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of June, 2018, that I electronically filed the foregoing with the Clerk of the Court by using CM/ECF. Notice of the filing will be sent by email to all parties by operations of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access the filing through the court's CM/ECF system.

/s/Rip Andrews

RIP ANDREWS

AL Bar No.: ASB-8868-152a

MD pro hac Bar No.: 806835

Attorney for Plaintiff